

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NATHAN SAUNDERS,

Petitioner,

-v.-

9:03-CV-0660
(LEK/VEB)

DANIEL SENKOWSKI,

Respondent.

DECISION and ORDER

Petitioner Nathan Saunders, by his attorney, commenced this action by filing a Petition on May 27, 2003. Dkt. No. 1. The petition was recommended denied and dismissed by the Report and Recommendation of United States Magistrate Judge Victor E. Bianchini filed on March 8, 2007. Dkt. No. 15. That Report and Recommendation was adopted, and the petition dismissed, by Order of this Court filed on March 30, 2007. Dkt. No. 17. The March 30, 2007 Order also *sua sponte* granted Petitioner a Certificate of Appealability to the Second Circuit Court of Appeals for the limited purpose of determining whether equitable tolling is appropriate under the facts presented in this case. *Id.* at 2. Judgment was entered in favor of Respondent on March 30, 2007. Dkt. No. 18. Petitioner filed a Notice of Appeal to the Second Circuit Court of Appeals. Dkt. No. 19.

Presently before the Court is Petitioner's request to proceed *in forma pauperis* during the appeal of his case. Dkt. No. 20. Because Petitioner is indigent,¹ the Court grants Petitioner's request to proceed with this matter *in forma pauperis* for purposes of his appeal to the Second

¹ While Petitioner has been represented by counsel throughout this proceeding, the representation was provided on a *pro bono* basis. Dkt. No. 20 at 1.

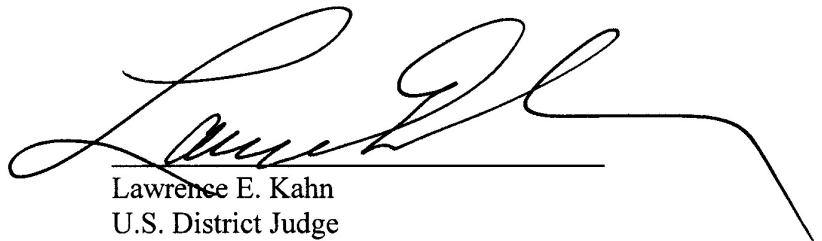
Circuit.²

WHEREFORE, it is hereby

ORDERED, that Petitioner's request to proceed with the appeal of this matter *in forma pauperis* (Dkt. No. 20) is **GRANTED**, and it is further

ORDERED, that the Clerk serve a copy of this Order on the Parties in accordance with the Local Rules of Practice of this District.

DATED: May 16, 2007
Albany, New York



Lawrence E. Kahn
U.S. District Judge

² Of course, this application is granted subject to the Second Circuit collecting the fees due it in light of the Prison Litigation Reform Act. *See* Pub.L. No. 104-134, 110 Stat. 1321.